



State of Utah

SPENCER J. COX

Governor

DEIDRE M. HENDERSON

Lieutenant Governor

Insurance Department

JONATHAN T. PIKE

Insurance Commissioner

August 5, 2021

Chase Phillips

Chair, Title and Escrow Commission

Via email: cphillips@americansecure.com

Re: Regulation of below-cost escrow charges

Dear Mr. Phillips:

As you are aware, the Insurance Department and the title insurance industry currently disagree about Utah's prohibition on below-cost escrow charges. See Utah Code § 31A-19a-209(3)(a)(ii). Under the Department's interpretation of this statute, the prohibition applies to charges in each escrow transaction. According to industry, however, the prohibition applies to average annual escrow charges and costs. Because both positions are arguable from a legal and a policy standpoint, I believe that the appropriate method of resolving the disagreement is to:

- determine the best regulatory approach to the question; and
- draft a statutory amendment that reflects the approach.

The Title and Escrow Commission could provide valuable assistance in this endeavor. It has expertise concerning below-cost escrow services, and has authority to "advise the commissioner" on important title insurance industry matters when requested. Utah Code § 31A-2-404(2)(f). For those reasons, I am directing the Commission to:

- evaluate the need to regulate below-cost escrow services;
- determine the best approach for regulating below-cost escrow services; and
- draft a proposed amendment to § 31A-19a-209(3)(a)(ii) that reflects this approach.

Please have the proposed amendment completed by October 15 so that it can be included in the Department's legislative bill.

I encourage the Commission to consult with industry, the Department and its counsel in this undertaking. If you have any questions, please feel free to contact my deputy, Reed Stringham.

Sincerely,

Jonathan Pike
Insurance Commissioner

Cc by email: Darla Milovich, Randy Smart, Kim Holbrook, Cal Robinson, Tracy Klausmeier, Perri Babalis, Adam Martin, Reed Stringham